

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1283
Economic Matters

(Delegate Branch, *et al.*)
Education, Health, and Environmental Affairs

Alcoholic Beverages - Class 5 Brewery License

This bill makes numerous changes to on-site sampling and sale of beer by a Class 5 brewery in the State. The bill requires the Comptroller to report to specified committees of the General Assembly by October 1 each year concerning the on-site sampling and sale of beer by a Class 5 brewery. The bill also requires breweries to report to the Comptroller the information needed to prepare this annual report.

The bill takes effect July 1, 2017. Provisions of the bill pertaining to the annual report prepared by the Comptroller's Office terminate June 30, 2022.

Fiscal Summary

State Effect: The Comptroller's Office can handle the bill's requirements using existing budgeted resources. Revenues are not expected to be materially affected.

Local Effect: Local licensing boards can handle the bill's expanded responsibilities related to on-premises sampling and sale of beer for Class 5 breweries using existing resources. Revenues are not affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The bill makes the following changes to the sampling and sale of beer by a Class 5 brewery:

- Beer that is sampled and sold on-site by a Class 5 brewery, or at a brewery promotional event, must be fermented and brewed entirely at the brewery and under the trade name of the license holder.
- A brewery may serve, at no charge, samples of beer consisting of a total of not more than 18 ounces of beer per day. This limit also applies to samples at a brewery promotional event.
- A local licensing board may grant an on-site consumption permit to a brewery, but is not required to do so.
- In addition to the on-site consumption permit, a Class D beer license, or an equivalent license in jurisdictions that do not have a Class D beer license, also allow a brewery to sell beer for on-site consumption.
- A local licensing board must require each permit or license holder to comply with existing alcohol awareness training requirements and abide by all applicable trade practice restrictions.
- A brewery may sell 2,000 barrels of its beer each year for on-premises consumption, instead of only 500 barrels. A license holder may also apply to the Comptroller to request permission to sell up to 1,000 additional barrels under specified circumstances.
- A holder of a Class 5 brewery license and an appropriate permit or license for on-premises consumption may only exercise the sales and serving privileges from 10 a.m. to 9 p.m. on Sunday through Thursday and from 10 a.m. to 10 p.m. on Friday and Saturday.

The Comptroller's annual report to the Senate Education, Health, and Environmental Affairs and House Economic Matters committees must include the following information about each Class 5 license holder for the preceding fiscal year: (1) total beer production; (2) total beer sales for on-site consumption; (3) whether the license holder has requested permission to sell additional beer, and whether the Comptroller granted permission to do so; and (4) total sales of additional beer, as applicable. The Comptroller's Office may also include this required information in its Alcohol and Tobacco Tax Annual Report.

Current Law: A Class 5 brewery licensee is authorized to (1) establish and operate a plant in Maryland for brewing and bottling malt beverages at the location described in the license; (2) import beer from a holder of a nonresident dealer's permit; and (3) sell and deliver beer to any wholesale licensee in the State, or person outside of this State that is authorized to acquire it.

A licensee is authorized to serve, at no charge, to a person of legal drinking age who participates in a guided tour of the facility or attends a scheduled promotional event or other organized activity at the licensed premises, no more than six samples of beer brewed at the licensed premises, with each sample consisting of no more than 3 ounces from a single style of beer. A licensee may also sell up to 288 ounces, per person, of beer brewed at the brewery for off-premises consumption to anyone who participates in a guided tour of the brewery or attends a scheduled promotional event or other organized activity at the licensed premises, provided the person is of legal drinking age.

Local licensing boards in the State must issue on-site consumption permits to applicants that hold a Class 5 brewery license and a Class D beer license. A local licensing board that does not issue a Class D beer license must establish an equivalent license and require the applicant to obtain that license before issuing a permit for on-site consumption. Beer sales for on-premises consumption may not exceed 500 barrels. A local licensing board may charge a fee for the on-site consumption permit.

Generally, for a premises that is licensed to sell alcoholic beverages with off-sale privileges, or a premises that is licensed with on-sale privileges and sells alcoholic beverages directly to a customer from a bar or service bar, the license holder or specified employees must complete training in an approved alcohol awareness program in order to obtain and retain their alcoholic beverages license. The training program must be approved and certified by the Comptroller, and it must provide information on how alcohol affects a person's body and behavior, the dangers of drinking and driving, refusing service before a customer becomes intoxicated, and determining if a customer is old enough to legally consume alcohol. The training is valid for four years.

Background: There are currently 30 Class 5 brewery licenses issued in the State.

Small Business Effect: The bill affects small business breweries in three significant ways. First, the bill allows a brewery to sell up to 2,000 barrels (or 3,000 in some circumstances) of its own beer instead of 500, which is likely to lead to increased revenues for breweries. Second, the bill limits the hours in which a brewery can sell or serve beer on-premises, which is likely to lead to decreased sales and revenues. Finally, according to the Brewer's Association of Maryland, limiting a brewery to only selling and sampling beer that was brewed on-site is likely to negatively affect new breweries and breweries that have reached capacity at their locations. Under these circumstances, breweries sometimes contract out to produce additional product and, under the bill, this contract beer will not be allowed to be sold or sampled on-premises at the brewery.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore, Montgomery, and Prince George's counties; Comptroller's Office; Brewer's Association of Maryland; Department of Legislative Services

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